

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEO. M. MARTIN COMPANY, a California
corporation, and THE MARTIN FAMILY
TRUST – 1989,

No. C 07-00692 WHA

Plaintiffs,

v.

ALLIANCE MACHINE SYSTEMS
INTERNATIONAL, LLC, a Wyoming
corporation,

**ORDER DENYING
DEFENDANT'S MOTION
FOR COSTS AND FEES
RELATED TO TRIAL DELAY
AND VACATING HEARING**

Defendant.

The original trial date in mid-2008 was continued until the autumn to allow counsel for plaintiffs to cure certain shortfalls in its inadequate disclosures and to allow for discovery thereon. The trial in fact occurred as re-scheduled.


It is true that the Court stated, in granting the trial continuance, that it would do so on the condition that plaintiffs reimburse defendant for any incremental fees and expenses reasonably incurred as a result of the continuance. The Court made clear, however, that *incremental* meant *incremental* and did not mean any and all expenses whether or not they would have been incurred anyway.

Defendant's pending motion for fees and expenses is so grossly overreaching that it will be denied in full and defendant will not be allowed a further opportunity to re-file a less greedy

1 motion. Had defendant requested a number in the \$30,000 to \$40,000 range, it might have
2 been allowed but defendant has gone beyond the pale and requested ten times that amount.
3 The Court is thoroughly familiar with the case. It has a good sense of the actual degree of
4 prejudice flowing from the short continuance and the actual degree of incremental burden
5 reasonably incurred. The Court is most disappointed that defense counsel would overreach in
6 this manner. The Court is in agreement with virtually every example cited by plaintiffs in their
7 memorandum. The motion is **DENIED** in full and with prejudice to re-filing. The hearing set
8 for January 29 is **VACATED** as unnecessary.

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10 **IT IS SO ORDERED.**

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12 Dated: December 15, 2008.

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15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
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